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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAC.APP. 95/2016

NATIONAL INSURANCE CO LTD

..... Appellant

Through Mr. L K Tyagi, Adv.

versus

ANITA DEVI & ORS

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **01.02.2016**

CM No.3408/2016

Exemption allowed, subject to just exceptions.

MAC.APP. 95/2016 & CM No.3407/2016 (stay)

Heard.

Perused.

The order challenged by the insurance company at hand is one passed by the Motor Accident Claims Tribunal on the prayer under Section 140 of Motor Vehicles Act, 1988 on 30.10.2015 granting interim award of ₹50,000/- on the principle of no fault liability. It is well settled that for such purposes the main factors to be prima facie considered are as to whether the vehicle in question was involved and as to whether it is covered by an insurance policy taken out by the registered owner. The insurance company does not dispute that a death has occurred and further that the truck in

question was covered by a valid insurance policy. Its only submission is that the police has not registered case under Section 279 of Indian Penal Code and given the narration of facts in the FIR, the truck was not moving on public road and thus cannot be said to be involved. As mentioned in para 3 of the appeal itself, the fatal accident occurred on account of driver of the vehicle untying the rope resulting in the cargo falling out crushing the victim to death. In these circumstances, it cannot be said that the vehicle was not involved. The appeal is unmerited and, thus, dismissed in *limine*.

Statutory deposit, if made, shall be refunded.

R.K.GAUBA, J

FEBRUARY 01, 2016
VLD